

# **RMM LAW COLLEGE SAHARSA**

## **LAW OF TORTS**

### **IIIrd Part**

### **Paper -V**

#### **TOPIC- Defamation**

**Lecture Notes by- INDRA BHUSHAN SINGH**

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#### **Defamation**

“Balance between one person’s right to freedom of speech and another’s right to protect their good name.”

Any intentional false communication, either written or spoken, that harms a person’s reputation; decreases the respect, regard or confidence in which a person is held; or induces disparaging, hostile or disagreeable opinions or feelings against a person is known as defamation.

Defamation is the act of making untrue statements about another which damages his/her reputation.

It is a statement that injures someone’s reputation. Defamation is the act of saying false things in order to make people have a bad opinion of someone.

Defamation may be defined as a communication to some person, other than the person defamed, of the matter which tends to lower the plaintiff in the estimation of right thinking persons or to deter them from associating or dealing with him. Defamation is a wrong done by a person to another’s reputation by words, written or spoken, sign or other visible representation.

In the words of Dr. Winfield “Defamation is the publication of a statement which tends to lower a person in the estimation of right thinking members of the society, generally or, which tends to make them shun or avoid that person.”

Defamation is of two kinds Libel and Slander. If the statement is made in writing and published in some permanent and visible form, then the defamation is called libel. Whereas, if the statement is made by some spoken words then the defamation is called slander.

Defamation may be a civil charge or a criminal charge under Section 499 and 500 of IPC.

Section 499 Of IPC:- Whoever by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person is said to defame that person.

Section 500 of IPC:- Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years or with fine or both.

What the victim must prove to establish that defamation occurred

If the victim has to win a lawsuit relating to defamation, then the victim has to prove the following essentials:

- 1) Statement- There must be a statement which can be spoken, written, pictured or even gestured.
- 2) Publication- For a statement to be published, a third party must have seen, heard or read the defamatory statement. If there is no publication there is no

injury of reputation and no action will arise.

3) Injury- The above statement must have caused an injury to the subject of the statement. It means that the statement must tend to injure the reputation of a person to whom it refers.

4) Falsity- The defamatory statement must be false. If the statement is not false then the statement will not be considered as defamatory statement.

5) Unprivileged- In order for a statement to be defamatory, it must be unprivileged. There are certain circumstances, under which a person cannot sue someone for defamation.

### **Defences available under defamation**

The following are the defences taken in an action for defamation:-

1) Justification of truth-

If the defendant proves that the defamatory statement is true, no action will lie for it, even if the statement is published maliciously. It is not necessary to prove that the statement is literally true, it is sufficient if it is true in substance.

2) Fair and bonafide comment-

A fair and bonafide comment on a matter of public interest is a defence in an action for defamation. The essentials of a fair comment are:

- (i) That it is comment or criticism and not a statement of fact,
- (ii) That the comment is on a matter of public interest,
- (iii) That the comment is fair and honest.

3) Privileged statement-

Law makers have decided that one cannot sue for defamation in certain instances when a statement is considered privileged. Whether a statement is privileged or unprivileged is policy decision that rests on the shoulders of the lawmakers.

